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ABSTRACT

This paper assesses federal legislation and programs affecting education for children with disabilities. The enactment of Public Law 94-142 sought to ensure that every handicapped child aged 5-18, and later 3-21, receive appropriate public education in the least restrictive environment. Studies support the importance of early intervention programs to reduce the later need for special education services. Two federal programs provide support for early childhood education services: the Handicapped Children's Early Education Program and the Preschool Incentive Grant Program. Research also documents that disabled and nondisabled children should be integrated in the educational setting, and several school districts have established integrated educational programs that are appropriate for a range of needs for all children. Recommendations are made calling for legislation to mandate special education and related services beginning at birth, to create standards for the application of the least restrictive environment requirement, to fund a National Technical Assistance Center, and to establish a National Commission for the Study of Excellence in Special Education. (JDD)

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TOPIC PAPER H:

EDUCATING CHILDREN WITH DISABILITIES

National Council on the Handicapped

February, 1986

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ACKNOWLEDGMENT

This is one of a series of ten topic papers developed by the National Council on the Handicapped as part of its Special Report to the President and Congress: TOWARD INDEPENDENCE: An Assessment of Federal Laws and Programs Affecting Persons with Disabilities--With Legislative Recommendations. The members of the National Council on the Handicapped wish to expressly acknowledge with appreciation the special contribution made to this paper by Michael Marge and Naomi Karp.

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I. INTRODUCTION

With the enactment of Public Law 94-142 approximately ten years ago, a new era of educational and civil rights dawned in the United States. The purpose of the legislation was to ensure that every handicapped child between ages five and eighteen, and later between three and twenty-one years of age, receive appropriate public education in the least restrictive environment. There is substantial evidence that this legislation has had a very positive effect on the educational process and philosophy of our nation. The legislation has made it possible for over four million children with all types of special need to receive educational and related services in 1983-84 (U.S. Department of Education, 1985).

This legislation has also provided opportunities for children without disabilities to learn with and from their peers who are disabled. Several committed school districts have developed carefully planned, totally integrated programs that allow severely disabled students to attend regular schools with their nondisabled peers, preparing them to fully participate in community life together.

There is, however, considerable need for further progress in providing appropriate and qualitative educational services to disabled infants and children. The National Council on the Handicapped has identified three specific issues pertaining to the educational needs of children with disabilities that require the immediate attention of Federal, State and local law-makers. The three issues are:

1. The need for federally-mandated special education and related services beginning at birth. Every State should provide these services to infants and young children with special needs to ameliorate and deter the effects of congenital and early acquired impairments and disabilities. If such impairments and disabilities are unattended, they will lead to staggering costs in later years.

2. The need to assure that children with special needs are educated in the same school buildings as their nondisabled peers. Only by placing students of all ages and ability levels in non-restrictive environments will these students become adults who possess the skills and behaviors needed to fully participate in society. Also, their nondisabled peers will consider it routine to work and participate in leisure activities with persons with disabilities, thereby ameliorating attitudes that create the counter-productive and costly barriers that reduce opportunities for people with disabilites.

3. The need to establish a National Commission for the Study of Excellence in Special Education. The Commission should study the current status of educational programs and related services for our nation's handicapped children and youth. It will identify positive contributions, describe shortcomings, and recommend methods to improve services for disabled children.

II. EARLY CHILDHOOD AND PRESCHOOL PROGRAMS FOR CHILDREN WITH SPECIAL NEEDS

A review of the effectiveness of preschool education for children with handicapping conditions has demonstrated definite educational and economic benefits. It has become clear that the earlier the intervention, the greater the ultimate dollar savings and the higher the rate of educational attainment in subsequent years (Select Committee on Children, Youth, and Families, 1985). In this August 1985 report released by Congressman George Miller (D-CA) and Dan Coats (R-IN), eight Federal programs were analyzed to show: 1) how they improve the lives of the children involved and 2) how they saved tax monies. The report provided the following support of the importance and benefits resulting from early intervention programs for disabled infants and young children:

- o If intervention for handicapped infants is delayed until age 6, special education costs to age 18 are estimated at $53,350. Intervention at birth is estimated to result in special education costs of $37,272, a savings of $16,078.
  - For every $1 invested in high quality preschool programming, there is a $3 reduction in public special education costs.
  - School districts in Colorado have saved $1,560 per pupil in special education costs because of the INREAL early intervention program (Select Committee on Children, Youth, and Families, 1985, p. 27).

A. Federal Legislation

Other studies support the finding that children enrolled in early intervention programs had less need later for special education programs than their counterparts who did not receive the interventions. In the U.S. Department of Education's Seventh Annual Report to Congress (1985), Schweinhart and Weikart projected that if a child receives preschool

interventions, there will be a 248% return on the investment by the time high school is completed. Witnesses at a series of public hearings on education issues pertaining to all American children testified that "The major finding across studies is that early childhood education reduced the need for special education placement and retention in grade." (National Coalition of Advocates for Students, 1985).

Two Federal programs currently provide support for early childhood education services. They are described below.

1. Handicapped Children's Early Education Program--Part C, Section 623. In 1970, Public Law 91-230 established the Handicapped Children's Early Education Program (HCEEP), often referred to as the "First Chance Network." The program encouraged the development and dissemination of models for delivery of services to young children with special needs. Public and private nonprofit agencies were supported in developing and demonstrating top quality service programs for disabled children and their families. Many of the effective models were then disseminated throughout the country.

Public Law 98-199 introduced a major change in the Handicapped Children's Early Education Program (HCEEP). The new amendments to P.L. 94-142 mandate State-level comprehensive service delivery systems, thus altering the State Implementation Grant (SIG). The SIG was designed to assist State education agencies to plan for the development and expansion of early intervention services for young children with special needs. These grants provided administrative resources rather than direct services to children. But with the passage of P.L. 98-199, the Early Childhood State Plan program replaced the State Implementation Grant Program. Under Part C, Section 623, awards are now made to States to plan, develop, and implement a comprehensive

statewide plan for delivering special education and related services to young disabled children from birth through five years of age. Priority emphasis is on children who often are not identified and who are not now served. The legislation encourages parent participation in the development and operation of programs that are designed to improve language, social, physical, mental and emotional development of young children with special needs.

State plan grants are awarded to State education agencies for three phases of activities that focus on planning, development, and implementation:

(a) Planning grants are available for up to two years. The range of funding for planning grants is $70,000-$100,000 per year to assess the needs and put together procedures for the development of a State plan.

(b) Development grants are available for up to three years. The range of funding for development grants is $125,000 to $150,000 per year to develop a comprehensive State plan and obtain State agency approval.

(c) Implementation grants are available for up to three years. The range of funding is $180,000 to $220,000 per year.

Commencing in 1986, a description of the status of special education and related services to disabled children from birth through five years of age shall be included in the Secretary of Education's Annual Report to Congress. This will require documentation of the number of young children receiving services through Head Start, Developmental Disabilities Program, Crippled Children's Services, Mental Health/Mental Retardation Agencies, and State Child Development Centers and private agencies under contract with local schools. It is hoped that this effort will result in better coordinated services at the local and State levels.

The new State plan grant program affords States the opportunity to build a comprehensive service program for all disabled and at-risk children from birth to five years of age. The goal of the Federal Office of Special Education (within the Department of Education) is that every State and Territory will apply for a State plan grant within the next few years.

2. Preschool Incentive Grants. Funds obtained under the Preschool Incentive Grant Program are used by States to provide special education and related services to handicapped children, ages three to five. A formula is used to determine how much funding each State will be awarded for the provision of these services.

With the enactment of P.L. 98-199, Section 619(c), the Secretary of Education shall provide funds for special education and related services to handicapped children from birth through three years of age.

In Fiscal Year 1985, 55 of 57 eligible agencies elected to participate in the program. The funds available for this program increased from $12,500,000 in Fiscal Year 78 to $29,000,000 in Fiscal Year 85 (U.S. Department of Education, 1985).

States report that the Preschool Incentive Grant Program has made an impact on the overall services to young handicapped children as follows:

(a) Identification and assessment procedures have been refined.

(b) More effective training is available for personnel who provide services to handicapped children.

(c) The capability of local educational agencies to meet the individual needs of handicapped children aged birth through five has increased.

(d) Rural service delivery programs have been expanded for handicapped children from birth to five years of age.

(e) Dissemination of information on available services for young children has increased.

(f) Services to the population from birth through two years of age have been expanded (U.S. Department of Education, 1985).

B. Number Served

Currently, 42 States mandate services to some portion of the birth through five year old population with special needs. Only seven States mandate services beginning at birth. Nineteen States mandate services for all three to five year olds with disabilities, and twenty-three mandate services for some portion of the three to five year old population. These data are summarized from the chart on the following page.

The Federal Office of Special Education Programs estimates that approximately 250,000 children from birth to two years of age are in need of special education services. However, only 60,000 of these children are receiving the necessary services (Conversation held with Becky Calkins, 1985).

C. Gaps in Legislation

States report that several Federal initiatives resulting from the amendment of the Education of the Handicapped Act by Public Law 98-199 helped both State and local education agencies to improve and increase services to preschool handicapped children. These include changes in the use of the Preschool Incentive Grant Program to allow services down to birth, the State Implementation Grant Program, and a variety of other programs under the Handicapped Children's Early Education Program (U.S. Department of Education, 1985). In many States, the Support for State Operated and State Supported Schools Program authorized by Public Law 89-313, Part B is being used to improve the quality of early intervention services and to extend service delivery.

PROFILE OF STATES' MANDATED AGE OF ELIGIBILITY FOR PRESCHOOL ELEMENTARY SCHOOL SPECIAL EDUCATION SERVICES

Mandated Service from Age	
0	Iowa-Maryland-Michigan-Nebraska-New Jersey-South Dakota
2	Virginia
3	Alaska-California-Connecticut (from 2.8 years)-Hawaii-Illinois-Louisiana-Massachusetts-New Hampshire-Rhode Island-Washington**-Wisconsin-Texas* (from birth for VI, HI, and DB)
4	D.C.-Minnesota-Delaware* (from age 3 for TMH, SMH, and PI; from birth for HI, VI, DB and A)-Oklahoma* (from birth for VI, HI, and severely handicapped)-Tennessee* (from age 3 for D)
5	Colorado-Florida-Georgia-Idaho-Kentucky-Maine-Missouri-Nevada-New Mexico-New York-North Carolina-Ohio-Utah-West Virginia
6	Alabama-Indiana-Kansas-Mississippi-Montana-North Dakota-Oregon-Pennsylvania-Vermont-Wyoming-Arkansas* (from age 5 if LEA offers K)-South Carolina* (from age 4 for HI and D)

A = autistic
D = deaf
DB = deaf-blind
EMH = educationally mentally handicapped
HI = hearing impaired
K = kindergarten
LD = learning disabled
PH = physically impaired
SEM = socially/emotionally maladjusted
SI = speech impaired
SMH = severely mentally handicapped
TMH = trainable mentally handicapped
VI = visually impaired

* Exceptions to preschool age mandates (for example, in Texas all handicapped children age three and older are eligible for special education and related services; in addition, services are mandated from birth for all children who are visually impaired, hearing impaired or deaf-blind).

** Preschool services in Washington are currently mandated from age 5. In the 1984-85 school year, preschool services will be mandated from age 4 and in the 1985-86 school year, preschool services will be mandated from age 3.

NOTE: Alaska has moved to mandated services from birth.

SOURCE: Data obtained from SEAs and a review of the 1984-86 Annual Program Plans. Reproduced from the above referenced Special Net bulletin board with permission of the National Association of State Directors of Special Education (NASDE), 2021 K Street, N.W., Suite 305, Washington, D.C. 20006. (National Center for Clinical Infant Programs.)

A 1984 review of the State plans indicates that at least 18 States are using some portion of their set-aside funds available under the Education of the Handicapped Act, Part B (EHA-B) State Grant Program to expand preschool services. For example, EHA-B State Grant Program funds are being used to help finance the development of infant programs in Maryland, Florida, and California; the operation of Child Find Activities in Montana, Nevada, Pennsylvania, North Dakota, South Dakota, and Tennessee; the support of interagency activities and development of guidelines and handbooks for preschool programs in South Dakota; and the dissemination of information on the importance of early identification and intervention in Arizona.

Currently States may use a hodge-podge of Federal legislation to plan for and provide special education services to a portion of disabled children from birth to five years of age. A great deal of variability exists in the availability and quality of services for these children. And as was stated earlier, there is a critical need to provide services to the birth to two year old population since it is estimated that only one-fourth of this population receive needed services.

Several States are making considerable investments in developing comprehensive education services for disabled infants and young children. As an example, Massachusetts has developed a model that should be considered by States interested in meeting their responsibilities to the preschool handicapped population. In 1983, the Massachusetts Legislature passed a bill which structurally and programmatically altered the delivery of early intervention services to handicapped children between birth and three years of age. The bill designated a single State agency, the Department of Public Health, with responsibility for the provision of early

intervention services, increased the resources available for the "systematic and rational" expansion of services, and directed the Department of Public Welfare to include early intervention services in its list of reimbursable services under Medicaid (Wyngaarden-Krauss, 1985).

Despite evidence of the benefits of early programming, State and local education agencies report three constraints on the ability of the States to obtain mandates for early childhood educational services, especially for handicapped infants. These constraints are: (1) limited fiscal resources at the local and State levels; (2) attitudes among many that young children should not attend school; and (3) disagreement concerning which agency should be responsible for serving preschool handicapped children. Continued progress in mandating early childhood educational services for handicapped infants and young children will depend in part upon the successful resolution of these three issues (U.S. Department of Education, 1985).

III. INTEGRATION OF SPECIAL EDUCATION CLASSES AND PROGRAMS INTO REGULAR EDUCATIONAL SETTINGS

Research documents that it is in the best interest of students, their families, and the public to house special education classes in regular school buildings with nondisabled children (Brown, et al., 1982). The integration of disabled and nondisabled children in the educational setting supports the goal of enabling disabled persons to fully participate in their communities' employment, social and recreational programs.

Research also supports the finding that integrated schools are cost-effective because of decreased costs for building maintenance, transportation, and other administrative and materials costs. Further, integrated schools are producing graduates who are better able to function in integrated post-school environments. Most significantly, student behaviors improve markedly in integrated settings. Nondisabled persons become more accepting of persons with disabilities when they are together in integrated buildings (Brown, et al., 1982).

Placing students with special needs in the least restrictive environment means that with proper technical assistance and careful planning, local school districts can establish integrated educational programs that are appropriate for a range of needs for all children. School districts in Albuquerque, New Mexico; San Francisco, California; Madison, Wisconsin; Birmingham, Alabama; and DeKalb, Illinois have established major integrated programs (Taylor, 1982). Parents, educators, and the general public must be willing to create programs that allow disabled children to be educated alongside their nondisabled peers if people with disabilities are to be prepared to fully participate in their communities as taxpayers rather than as taxtakers.

Congress did not specifically define "least restrictive environment" in either Public Law 94-142 or its amendments. However, many special educators and parents interpret "least restrictive environment" to mean that appropriate public education should be provided in regular school buildings, integrating handicapped and nonhandicapped children. In other words, programs should be tailored to meet individual special needs, while at the same time allowing disabled and nondisabled children to be together for as many appropriate activities as possible.

The trend toward integrated school systems is slowly growing, even among State-supported schools for students with special needs. For example, only 26% of elementary and secondary deaf students attended residential schools in 1984, as compared to 46% in 1970 (Will, 1985). Today, the vast majority of deaf students are successfully integrated into secondary schools with peers who are not deaf (Wicker, 1985).

It is essential that the Department of Education help States develop strategies for designing appropriate, carefully planned, fully integrated educational programs for students with special needs. Even though several school districts have model integrated educational programs, hundreds of other districts need technical assistance to help them develop similar programs. It is also very important that the Department of Education carefully review and monitor State special education plans to ensure that students are receiving services in the least restrictive environment.

In 1954, the Supreme Court ruled that "separate but equal" schools were unconstitutional. In 1986 and beyond, that ruling should apply to <u>all</u> educational programs for the handicapped.

IV. RECOMMENDATIONS

Special education helps this nation's children with disabilities to develop the skills they need to live as independently as possible when they become adults. Although special education services have progressed greatly since the passage of the Education for All Handicapped Children Act over ten years ago, the knowledge and ability to implement "best practices" falls short of what is needed.

First and foremost, there is a need to encourage the States to make available special education and related services beginning at birth. Of an estimated 250,000 children under the age of two who could use special education services each year, only 60,000 receive services. Just seven States mandate that special education services should be provided to infants. In addition, the availability and quality of services for young children with special needs varies greatly from State to State.

Educational services for infants are typically provided in the home, with educators and parents working together closely to enhance the child's educational development. Considerable evidence indicates that early intervention programs that actively involve parents result in greater ultimate educational achievement, improve the quality of life of disabled children and their families, and reduce the extent of need and therefore the cost of special education services in later years. As a result, early intervention services produce considerable tax savings over the long run.

A second critical issue is the need to educate children with special needs in regular education settings. Students of all ages and ability levels who are placed in non-restrictive environments can learn the skills and behaviors needed to fully participate in society as contributing adults.

This does not mean placing students in the nearest school irrespective of individual needs and abilities, nor does it mean placing students with disabilities into regular classrooms when they need special services. In most cases, a free appropriate public education should be provided to children with disabilities in age-appropriate regular school buildings that offer special education and related services. The Council recognizes that there are situations in which a child's educational needs require placement in an appropriate private school setting or in a specialized public school program. Academic programs must be tailored to meet individual needs while allowing time for disabled and nondisabled peers to be together all or part of each day.

With technical assistance and careful planning, local school districts and parents can establish totally integrated educational programs that are appropriate to a range of needs. School districts in Albuquerque, New Mexico; Madison, Wisconsin; San Francisco, California; and Birmingham, Alabama all have major integration programs that appropriately meet the needs of all children, including those with the most severe handicaps.

A third issue centers on the need to conduct a national assessment of the status of special education today. The National Commission on Excellence in Education and similiar studies have not addressed special education. There is a serious need for a high-level, in-depth study of trends, issues, and problems affecting the nation's system of special education.

1. Congress should amend the Education for All Handicapped Children Act, to encourage States to make available a free appropriate public education to every disabled child from birth through age twenty-one.

To effectively serve children with disabilities, equal educational opportunity under Public Law 94-142, as amended, should be extended to all

children beginning at birth. A report by the staffs of Congressman Coats and Miller stated that very early intervention services which benefit children and their parents result in significant tax savings in the long run because of reduced special education expenditures in later years.

The proposed amendments should include the following provisions: a) each State education agency should be the lead and coordinating agency for the services; b) an early childhood specialist should be appointed in each State to ensure that the services are properly planned and implemented; c) Public Law 89-313 funds should follow the child from State institution services to pay for needed community-based services; d) each State education agency and State Medicaid agency should develop interagency agreements that list early intervention services (except for the costs of the educator) as Medicaid reimburseable items; and e) States should develop other appropriate funding mechanisms to meet their individual needs.

2. Congress should direct the Department of Education to promulgate and enforce standards for the application of the least restrictive environment requirement; such standards should clarify that the primary determinant of which educational setting is least restrictive is the educational appropriateness of the program.

The least restrictive environment mandate is a major component of the right to a free appropriate public education for children with disabilities. The principle has not, however, always been appropriately applied by State and local education agencies. In some instance, least restrictive environment has been used as a rationale for educational programs that are more "mainstream" than the educational needs of a particular student dictate. In other instances, the least restrictive environment has not been vigorously applied and children with disabilities continue to be unnecessarily segregated. The Department of Education should provide more direct guidance

to education agencies by issuing standards for the application of least restrictive environment principles. Such standards should focus upon educational appropriateness as the critical factor in determining what is the least restrictive program for a particular child. Determining educational appropriateness, in turn, should incorporate a presumption against unnecessary social isolation of children with disabilities.

3. Congress should direct the Office of Special Education Programs to fund a National Technical Assistance Center to help parents and State and local education agencies plan and develop educational options for children with special needs.

To help State and local education agencies and parents appropriately plan for an meet the range of needs of students with disabilities, a national technical assistance center should be funded. This center would provide the staff, materials, and other resources required to help the 57 State and territorial education agencies train parents, teachers, students, and administrators to develop age-appropriate programs for students with disabilities. Materials and information developed by the national technical assistance center would be available for dissemination by the network of special education regional resource centers already in place.

4. Congress should direct the Secretary of Education and the Chairperson of the National Council on the Handicapped to establish a National Commission for the Study of Excellence in Special Education.

Public Law 94-142, as amended, was enacted more than ten years ago. Its enactment has resulted in major changes in the provision of special education services in this country. A special commission should be established to assess what has been achieved and to determine the most cost-effective methods of fully achieving the goals of special education in

the future. The Secretary of Education and the Chairperson of the National Council on the Handicapped should each appoint an equal number of members to the commission. The commission should be asked to report its findings and recommendations to Congress within two years of the enactment of this provision.

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